

DEPARTMENT OF CORRECTION 	OPERATIONS Prisons	DIRECTIVE NUMBER: 303.02.01.003	PAGE NUMBER: 1 of 14
		SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	Reviewed: 10-07-03 Revised: 10-16-03

01.00.00. POLICY OF THE DEPARTMENT

It is the policy of the Idaho Board of Correction that the Department of Correction establish an objective system for inmate classification. A comprehensive and uniform classification system is essential if the goal of effective and efficient corrections is to be achieved. The purpose of classification is to place inmates in custody levels and facilities which offer the appropriate security and programs.

01.01.00. Purpose

The Department shall provide guidelines to identify disabled offenders, assist them with appropriate housing and program opportunities, and ensure that their constitutional rights are met in a manner consistent with legitimate penological interest.

Disabled offenders are those who have severe disabilities as defined in recognized severe disabilities in the definitions section of this directive.

02.00.00. TABLE OF CONTENTS

01.00.00.	POLICY OF THE DEPARTMENT
01.01.00.	Purpose
02.00.00.	TABLE OF CONTENTS
03.00.00.	REFERENCES
04.00.00.	DEFINITIONS
05.00.00.	PROCEDURE
05.01.00.	Effective Communications
05.02.00.	General Requirements
05.03.00.	Identification And Tracking Of Disabled Offenders
05.04.00.	Facility Placement
05.05.00.	Safety And Security Concerns
05.06.00.	General Identification And Notification
05.07.00.	Emergencies
05.08.00.	Use Of Restraints
05.09.00.	Searches
05.10.00.	Disciplinary Process

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 2 of 14
---	---	--------------------------------

05.11.00. Orientation
 05.12.00. Telephone Use
 05.13.00. Visitation
 05.14.00. Recreation
 05.15.00. Property
 05.16.00. Issuance Of Wheelchairs And Assistive Devices
 05.17.00. Offender Programs
 05.18.00. Program Access Determination
 05.19.00. Minimum Facility/Pre-Release/Work Release Placements
 05.20.00. Transportation
 05.21.00. Removal Of Assistive Devices
 05.22.00. Administrative Segregation
 05.23.00. Staff Training
 05.24.00. Offender Grievances

03.00.00. REFERENCES

29 U.S.C.A. Section 794(A).

Americans With Disabilities Act 42 U.S.C. Section 12101 Et Seq.

Attachment A, Notice Of Rights For Offenders With Disabilities.

Department Policy 303, Inmate Classification And Case Management.

Department Policy 607, Correctional Education And Programs.

Division Directive 316.02.01.001, Offender Grievance Process.

Division Directive 401.06.03.008, Special Needs, Care, Treatment Plans And Communication.

Division Directive 401.06.03.034, Health Appraisal/Assessment.

Division Directive 401.06.03.059, Orthoses, Prostheses And Other Aids To Impairment.

Rehabilitation Action Of 1973 Section 504(A), As Amended.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 3 of 14
---	---	--------------------------------

04.00.00. DEFINITIONS

Assistive Device. An authorized or prescribed instrument used to assist or provide accommodation for disabled offenders, including but not limited to canes, crutches, wheelchairs, hearing aids, or corrective lens. Animals as assistive devices for offenders will not be allowed in facilities.

Board. The state Board of Correction.

Case Management Team (TCM). The core case management group of correctional professionals working together to improve the delivery of correctional services to the offender population, promoting relationships among all principles, and working together to manage offenders. Case management team members may include the correctional officers assigned to a housing unit, a treatment staff member, the case manager, and adjunct (referral) participants.

Cause. The need to ensure the safety of persons, the security of the facility, or to maintain the integrity of an investigation, including collecting an assistive device as evidence in a criminal or disciplinary investigation.

Certified Interpreter. A visual language interpreter who: is approved in writing by a certified interpreter as able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary; and, promises in writing to abide by the Registry of Interpreters for the Deaf code of ethics for visual language interpreters. A qualified interpreter may only be approved by a certified interpreter. A certified interpreter is also a qualified interpreter. (See also Qualified Interpreter.)

Department. The state Department of Correction.

Disability. A physical impairment that substantially limits one (1) or more of the major life activities of an individual.

Disabled Offender. For the purposes of this directive, an offender who has a severe disability (i.e., permanent hearing impairment, permanent mobility impairment, permanent speech impairment, or permanent vision impairment) as defined in this directive.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 4 of 14
---	---	--------------------------------

Effective Access. A means of access that provides the offender an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity as other non-disabled offenders. To provide such access, the Department may utilize alternative methods, which are cost effective and non-intrusive to existing programs. The method, auxiliary aid, or service requested by the disabled offender will be given substantial consideration in the decision.

Inmate. An individual in the physical custody of the Board. (See also Offender.)

Offender. A person under the legal care, custody, supervision or authority of the Board including a person within or without the state pursuant to agreement with another state or a contractor. (See also Inmate.)

Permanent Hearing Impairment. Offenders who are deaf or whose hearing impairment substantially limits a major life activity. (See also Recognized Severe Disabilities.)

Permanent Mobility Impairment - Non-Wheelchair. Offenders who do not require a wheelchair but who have a permanent lower extremity mobility impairment that substantially limits walking (e.g., cannot walk one hundred (100) yards on a level surface or climb a flight of stairs without a pause). Such impairment may require the use of a cane, prosthesis, or walker. (See also Recognized Severe Disabilities.)

Permanent Mobility Impairment - Permanent Wheelchair. Offenders who are in wheelchairs due to a permanent disability, require little or no medical assistance, can manage their own activities of daily living, and are able to live in an accessible general population setting. (See also Recognized Severe Disabilities.)

Permanent Mobility Impairment - Permanent Wheelchair-Medical. Offenders with permanent medical conditions (a condition expected to last longer than six (6) months) who use a wheelchair due to a permanent disability and who are currently housed or who require placement in a medical facility because of a medical conditions. (See also Recognized Severe Disabilities.)

Permanent Mobility Impairment - Permanent Wheelchair-Mental Health. Offenders with a mental condition who use a wheelchair due to a permanent disability and need placement in a facility that provides mental health services. (See also Recognized Severe Disabilities.)

Permanent Speech Impairment. Offenders who have a permanent speech impairment (e.g., indiscernible speech or mute) and who cannot communicate effectively in writing. (See also Recognized Severe Disabilities.)

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 5 of 14
---	---	--------------------------------

Permanent Vision Impairment. Offenders who are blind or who have vision impairment not correctable to central vision acuity of less than 20/200, even with corrective lenses. (See also Recognized Severe Disabilities.)

Qualified Interpreter. A visual language interpreter who: is approved in writing by a certified interpreter as able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary; and, promises in writing to abide by the Registry of Interpreters for the Deaf code of ethics for visual language interpreters. A qualified interpreter may only be approved by a certified interpreter. A certified interpreter is also a qualified interpreter. (See also Certified Interpreter.)

Recognized Severe Disabilities. The four (4) classifications include: permanent hearing impairment; permanent mobility impairment; permanent speech impairment; and, permanent vision impairment. (See also Permanent Hearing Impairment; Permanent Mobility Impairment; Permanent Speech Impairment; and, Permanent Vision Impairment.)

Tele-Typewriter (TTY). A communication device used in conjunction with a telephone to type communications.

Telecommunication Device (TDD). A communication devise for deaf persons.

Undue Burden on the Department. An action causing either: fundamental alteration of a service, program, or activity; or, financial and administrative burdens. The Director or designee must make the decision that an undue burden on the Department would result after considering these factors. In considering financial and administrative burdens, the Director or designee shall consider all resources available for use in the funding and operation of the Department's service, program, or activity. If the action would create an undue burden on the Department, the Department shall take other steps to provide effective access.

05.00.00. PROCEDURE

05.01.00. Effective Communications

The following effective communication standards are applicable to all department facilities that have custody of disabled offenders:

The Department shall take appropriate steps to ensure disabled offenders' communication with staff, other offenders, and where applicable, the public, as are reasonably effective as non-disabled offenders' communication with such persons;

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 6 of 14
---	---	--------------------------------

The Department shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability the equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity within reason; and

Auxiliary aids that are reasonable, effective, and appropriate to the needs of the offenders shall be provided when simple written or oral communication is not effective. Such aids may include, but are not limited to: certified interpreters, qualified interpreters, readers, sound amplification or tactile devices, captioned television/video text displays, TTYs, taped texts, Braille materials, and large print materials.

Generally, factors to be considered in determining whether an interpreter is required include the context in which the communication is taking place, the number of people involved, and the importance, complexity, and length of the communication. In determining what type of auxiliary aid and service is necessary, the Department shall give substantial consideration to the requests of the individual with disabilities.

When a certified or qualified interpreter, or other assistive device or service, is not required under this directive, nothing in this directive shall be construed to prevent or discourage Department staff from communicating with deaf or hearing impaired offenders through written notes, pantomime, gestures, sign language, or other forms of communication.

An offender may waive services provided for under this directive. If an offender requests an interpreter other than a qualified or certified interpreter, such an interpreter may be provided.

Disabled offenders shall be provided effective access to health care services. Communications for health care services shall maintain the need for confidentiality between the health care provider and the offender. Communications where the offender's life may be in danger, or where there is an expectation of privacy, shall also maintain the need for confidentiality to the offender.

05.02.00. General Requirements

Offenders with specified disabilities of a temporary nature or of lesser severity than defined above can be provided effective access while in the general population. Facilities are responsible for providing housing and programming for these offenders on a case-by-case basis.

To the extent they are able, disabled offenders are responsible for making their needs known to medical and/or classification staff.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 7 of 14
---	---	--------------------------------

Facilities that house disabled offenders shall ensure that the offender receives effective access as outlined in this directive and through state or federal law.

To ensure effective access to programs, activities, and services, the Department shall: make reasonable modifications in policies, practices or procedures; remove barriers to access; and, provide auxiliary aids and services. If the action needed to provide effective access would create an undue burden on the Department, then the action shall not be required.

A deputy administrator of Operations shall assign a coordinator for the division who shall be responsible for maintaining a resource directory for use in finding assistive devices, qualified and certified interpreters, and other resources that may be necessary to implement this directive.

05.03.00. Identification And Tracking Of Disabled Offenders

Identification of disabled offenders shall normally occur during the intake process at the Reception and Diagnostic Unit (RDU). The extent of the disability and what accommodations are necessary shall be assessed by the medical services provider.

An offender may be referred to health care staff when:

- the offender voluntarily self-identifies or claims to have a disability;
- during interaction with the offender, staff observe signs of a disability; or
- health care or central file record contains documentation regarding a disability.

Health care staff shall conduct a medical evaluation of the offender to verify or rule out the existence of a disability. The evaluation and findings shall be documented. The documentation shall be placed in the offender's health record and on the Offender Management System.

Disabled offenders shall be tracked in the Offender Management System using the medical alert fields.

05.04.00. Facility Placement

Disabled offenders with additional health care concerns should be placed in a facility that has established health care programs suited to treat those specific health care concerns.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 8 of 14
---	---	--------------------------------

In situations where a disabled offender does not have any additional health care problems, the offender shall be placed into a facility consistent with his safety and security needs.

05.05.00. Safety And Security Concerns

Safety and security concerns shall take precedence over any accommodation afforded disabled offenders and may result in the temporary or permanent suspension of any accommodation for cause. The Department is not required to provide accommodation for disabled offenders:

if the accommodation poses a threat to the safety and/or security of facility, staff, offenders, or the public;

when the accommodation adversely affects legitimate penological interests such as protection of the health and safety interests of offenders and staff, deterrence of crime, and maintenance of offender discipline;

if the accommodation poses a direct threat of substantial harm to the health or safety of the offender or others, including staff, other offenders or the public; or

if the accommodation would create an undue burden on the Department.

05.06.00. General Identification And Notification

Facilities shall develop processes to address and provide for the effective identification of disabled offenders. The identification cards (ID cards) of deaf or blind offenders will be clearly marked with the words "DEAF" or "BLIND" on the front of the card. An additional ID card/picture of each hearing and visually impaired offender shall be maintained in an appropriate unit location to ensure that unit staff can easily identify and assist these offenders when needed.

Procedures shall be put into effect to instruct staff to contact hearing-impaired offenders, using effective means of communication, to provide access to public address announcements and/or reporting instructions. Visual alerting devices may also be used if feasible.

Procedures shall be put into effect instructing staff on proper methods of providing visually impaired offenders with notices, announcements, and other printed materials that offenders need to know.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 9 of 14
---	---	--------------------------------

05.07.00. Emergencies

Facility evacuation procedures shall address and provide for the evacuation of disabled offenders.

When disabled offenders are assigned to a facility, they shall be instructed on local evacuation procedures.

Staff are responsible for assisting disabled offenders in an emergency.

05.08.00. Use Of Restraints

Restraints shall be applied in such a manner as to maintain custody and control of offenders. Offenders whose disability precludes prescribed application\method of restraint equipment shall be provided reasonable modification under the direction of the supervisor in charge to ensure effective application. Offenders who need a sign language interpreter for effective communication shall be allowed use of their hands for signing after staff determine it is safe to not restrain their hands.

05.09.00. Searches

Clothed and unclothed body searches shall be conducted in a manner that maintains prudent security practices. The shift supervisor/designee shall provide directions for searching offenders whose disability precludes routine search methods.

05.11.00. Disciplinary Process

Disabled offenders shall be provided the same disciplinary process as other offenders with the following exceptions:

effective communication between staff and disabled offenders in the offender disciplinary process may require assistive devices to communicate effectively. Such methods include, but are not limited to:

- a qualified interpreter or reader;

- aids such as tactile alerting devices, sound amplification devices, captioned television/video displays, TTY, taped texts, Braille materials, and/or large print materials; and,

- use of a staff advisor.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 10 of 14
---	---	---------------------------------

During disciplinary hearings, certified or qualified interpreters must provide assistance to offenders who cannot readily understand or communicate in spoken language. (See Attachment A, Notice of Rights for Offenders with Disabilities.)

05.11.00. Orientation

Upon arrival at a facility, including the Reception and Diagnostic Unit, disabled offenders shall be provided an orientation via an effective means of communication including, but not limited to, the attached Notice of Rights. (See Attachment A, Notice of Rights for Offenders with Disabilities.)

05.12.00. Telephone Use

Facilities shall provide procedures necessary for permanent hearing impaired offenders to have effective access to telephonic communications by providing:

a TDD for personal telephone calls between offenders and family/friends and for legal telephone calls with attorneys; or

a TTY/voice relay service for communication between persons with hearing impairments even when one does not have a TDD. TTY calls shall be allowed extended time increments due to the time delay caused by the TTY relay process.

05.13.00. Visitation

Disabled offenders shall have effective access to visiting consistent with that of other offenders.

05.14.00. Recreation

Disabled offenders shall be provided effective access to recreation. Staff shall be made aware of the identity of disabled offenders and the nature of the disability so they can provide assistance if needed.

05.15.00. Property

Prescribed or approved health appliances and/or assistive devices shall be transferred with the offender and shall not be included in the space limits established for offender personal property.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 11 of 14
---	---	---------------------------------

05.16.00. Issuance Of Wheelchairs And Assistive Devices

When an offender is received in the custody of the Department and has personal possession of his wheelchair or other assistive device, the offender may request to retain the wheelchair or device. Following verification by the medical care provider the facility head shall make the final decision based upon whether the device can meet safety and security requirements or can be modified to meet safety and security requirements.

The cost of repairs to wheelchairs and/or assistive devices owned by offenders shall be handled in accordance with the medical services contract.

The facility head or designee may, on a case-by-case basis, permit offenders with customized wheelchairs and/or assistive devices to retain those items following release. In those cases where state owned wheelchairs and assistive devices are retained by the state upon the offender's release, a department representative will assist the offender with obtaining necessary devices from other sources.

05.17.00. Offender Programs

Programs must be modified for disabled offenders. Exclusion of offenders from programs or services shall be based on one of the following criteria:

the disability presents a valid safety and/or security concern;

in order to provide the modification for access, it would substantially alter the nature of the program;

in order to provide modification for access, it would present an undue burden to the facility/Department;

the offender is unable to perform basic or essential functions of the program, with or without reasonable accommodations; or

the offender is not qualified for the program.

Evaluation of an offender's eligibility for a facility program assignment shall be done on a case-by-case basis.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 12 of 14
---	---	---------------------------------

05.18.00. Program Access Determination

Disabled offenders shall be evaluated by the medical services provider and the Offender Classification Committee for their ability to participate in work, education, or other program activity.

The Department shall afford disabled offenders the opportunity to participate in a work program. The offender must be able to perform basic and/or essential functions of the work assignment.

Academic assignments should be adaptable to the needs of disabled offenders who can perform the essential functions necessary for achieving the goals of the class and who are otherwise qualified for the class.

05.19.00. Minimum Facility/Pre-Release/Work Release Placements

Disabled offenders shall not be precluded from assignment to a minimum facility, pre-release, or work release placement based solely upon their disabilities. The Department shall evaluate the offender's disability, on a case-by-case basis, in considering assignment to a minimum, pre-release, or work release facility.

05.20.00. Transportation

Special or particular needs of disabled offenders shall be taken into consideration and accessible means of transportation provided. Disabled offenders normally will not be transferred without their special aids or assistive equipment.

05.21.00. Removal Of Assistive Devices

Authorized or prescribed assistive devices shall only be removed from disabled offenders for "cause."

If an assistive device was used in a serious incident (i.e., assault, weapons manufacture, etc.) or presents a direct and immediate safety and security concern, it may be immediately removed by any employee present as soon as it is safe to do so.

Department officials may remove assistive devices to curtail use of such devices to violate prison rules, or as part of a sanction from a disciplinary proceeding resulting from such behavior, or both.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 13 of 14
---	---	---------------------------------

A pattern of behavior involving the inappropriate use of an assistive device over a reasonable period of time may result in removal of the device for an indeterminate period. When an assistive device is removed for an indeterminate period, the need to continue removal shall be reviewed initially within one month of removal and at least monthly thereafter. These reviews shall include a medical evaluation of the offender's progress without the device.

If use of the device is restricted for a determinate period, the offender shall be issued a Disciplinary Offense Report (DOR). The case management team shall determine if the offender will be restricted from use of the device pending adjudication of the disciplinary hearing. If the restriction is confirmed and the offender is found guilty, the restriction period shall commence on the day the device was removed from the offender and the restriction period shall be assessed according to the offense. The need to continue the restriction shall be reviewed monthly by the case management team. This review shall include a medical evaluation of the offender's progress without the device.

The shift commander may temporarily authorize a continued disallowance of an assistive device based on cause; however, the steps below must be followed as soon as possible or on the following workday. This process should in no way infringe upon standard procedures for crime scene preservation, evidence collection, emergency response, or any other measure necessary to ensure safety and security.

Consult the health care manager or designee regarding the offender's ability to function in the cell without the device and explore alternative means of "in-cell" modification (i.e., scoot stools for wheelchairs, etc.)

Inform the facility head or designee of the incident and the options for in-cell modification, and request authorization to remove the device or make a modification.

If a decision is made to remove the device, the assistive device will be stored in a designated location in the unit. The assistive device may be made available to the offender for recreation, escorts, visitation, etc.

05.22.00. Administrative Segregation

Accessible administrative segregation housing shall be established at designated facilities. Where not currently available, alternative secured housing may be temporarily established in appropriate locations.

DIRECTIVE NUMBER: 303.02.01.003	SUBJECT: Classification, Management, And Placement Of Offenders With Recognized Severe Disabilities	PAGE NUMBER: 14 of 14
---	---	---------------------------------

The administrative segregation unit manager must approve all assistive devices for retention. Decisions to allow assistive devices shall be made within three (3) working days of placement.

Whenever it becomes necessary to remove an assistive device from a disabled offender housed in administrative segregation to ensure the safety of persons or the security of the facility, the unit manager shall ensure the steps in 05.22.00. of this directive are followed.

05.23.00. Staff Training

The Department shall provide an orientation training for staff regarding special needs of deaf and hearing-impaired offenders and this directive during basic training and thereafter on an as needed basis.

05.24.00. Offender Grievances

Disabled offenders shall be offered and provided effective access to the grievance system in accordance with Directive 316.02.01.001 Offender Grievance Process. Disabled offenders may request through that process accommodations that were not previously provided. Denial of an accommodation based on undue burden shall be made in writing, pursuant to the definition of undue burden above, in response to a grievance.

Administrator, Operations

Date

IDAHO DEPARTMENT OF CORRECTION
NOTICE OF RIGHTS FOR OFFENDERS WITH DISABILITIES

THE RIGHT TO REASONABLE ACCOMMODATIONS

Disabled offenders have the right to receive "reasonable accommodations" to make housing, programs and services more accessible.

To ensure effective access to programs, activities, and services, the Department of Correction shall: make reasonable modifications in policies, practices or procedures; remove barriers to access; and provide auxiliary aids and services. If the action needed to provide effective access would create an undue burden on the Department or pose a legitimate safety or security concern, then the action shall not be required.

Deaf and hearing impaired offenders may request an interpreter and other services at facilities for:

- | | |
|---------------------------|-----------------------------------|
| - Disciplinary Hearings | - Parole Preparation and Hearings |
| - Medical/Dental Services | - Treatment Programs |
| - Grievances | - Education |
| - Mental Health | |

HOW TO ASK FOR A REASONABLE ACCOMMODATION

Disabled offenders must ask for accommodations, interpreters, and other services in person or in writing. In this facility, ask your classification counselor or any other Department staff.

HOW TO FILE A COMPLAINT

Offenders who are denied a reasonable accommodation, or believe they were discriminated against by Department staff because of their disabilities have the right to file a grievance according to Division Directive 316.02.01.001, Offender Grievance Process.

DISTRIBUTION: This notice shall be posted in prominent places at each Department Facility.